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SENIOR REVIEW GROUP MEETING

July 12, 1971

Time and Place: 4:30 p.m. - 6:45 p.m. White House Situation Room

Subject: Oceans Policy

Participation:

<u>Chairman:</u>	Mr. John N. Irwin, State	<u>NSC Staff:</u>	Col. Richard T. Kennedy
			Mr. Melvin H. Levine
<u>State:</u>	Mr. John R. Stevenson		Mr. Arnold Nachmanoff
	Mr. Donald McKernan		Mr. John Negroponte
			Mr. Denis A. Clift
<u>Defense:</u>	Mr. David Packard		Adm. Robert O. Welander
	Mr. John W. Warner		Mr. Marshall Wright
	Mr. Jared Carter		Mr. Mark Wandler
	Mr. Leigh Retiner		
<u>JCS:</u>	Adm. Thomas H. Moorer		
	Capt. James S. Brunson		
<u>CIA:</u>	Mr. Richard Helms		
<u>Commerce:</u>	Mr. James T. Lynn		
	Mr. Howard Pollock		
<u>Interior:</u>	Dr. William T. Pecora		
<u>Transp:</u>	Rear Adm. Roderick Y. Edwards		
	Capt. G.H. Patrick Bursley		

SUMMARY OF CONCLUSIONS

It was agreed that:

--At the preparatory conference of the Law of the Sea in Geneva, the U.S. should firmly maintain its position on territorial seas and international straits.

--Agencies agreed to comment on the State Department/DOD draft instructions to the delegation at the Geneva conference. Mr. Stevenson would coordinate responses.

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Mr. Irwin: Today we are going to review NSSM 125. I think we should talk about our oceans policy and not get to the problems we have with Brazil, Ecuador and Peru. The memos from the interested agencies say that we should wait until we finish the NSSM 125 Study before we take up those problems. If anybody wants to raise these issues at the end of the meeting, however, he could do so. (to Col. Kennedy) Do you agree this is the way we should run the meeting?

Col. Kennedy: Yes.

Mr. Irwin: I think it would be a good idea if Jack Stevenson starts out by giving us some background on the Law of the Sea Conference. Then he could move into the various options on fisheries and seabeds. (to Stevenson) Jack, why don't you go ahead.

Mr. Stevenson: Briefly, let me say that the reason we're here is that we're facing the greatest Law of the Seas crisis in three and a half centuries. Nine Latin American countries and one African country have already claimed continental shelf rights for 200 miles. Five other African countries have claims beyond 12 miles. Canada claims a 100-mile pollution zone, and this involves controls on navigation.

Certain Latin American countries have been actively soliciting support for their 200-mile claims. There is some evidence that they have been successful. If 200 miles is accepted, our geographers say that 25 percent of the oceans will cease to be high seas--and this includes all straits. According to the Soviet geographers, 50 percent of the oceans will cease to be high seas. This would mean that non-coastal States would have only the right of innocent passage left. And this, in turn, would mean no right for submarines to navigate submerged, and no right for aerial overflight. Surface transit would be subjected to control. In addition, there would be [REDACTED] no right to exploit oil or other resources without coastal-State consent, no right to fish and no right to conduct research. In the light of all of this, the General Assembly, with U.S. encouragement, called a general conference on the Law of the Sea for 1973.

This development is a break with three and a half centuries, when freedom of the sea prevailed. During this time, no State established sovereignty on the oceans. This was a stable principle. The only disputes before World War II were between States who claimed three-mile territorial seas and those who claimed 12 miles. All States agreed, however, that the high sea began beyond the 12 miles point.

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The situation is different today, largely as a result of our technical capability to use the oceans. We have developed off-shore sources of petroleum and minerals. We have developed supertankers and mechanized fishing ships and new methods of research. In fact, we now have the capability of destroying the ocean by pollution or over-fishing.

There's also the matter of unilateral claims, the counterpart of technical development. In the absence of an international means of handling law of the sea problems, the coastal States feel that they have a right to take unilateral steps. In addition, there is economic nationalism and the distrust the developing countries have of a law of the sea which was designed, they feel, to protect colonial powers.

Let me give you a brief run-down of the present U.S. law of the sea proposals, as outlined in NSDM 62 and the President's statement of May 23, 1970.

--In regard to territorial seas and straits, we proposed agreement on a maximum limit of 12 miles for the territorial seas. We proposed a new right of free transit through international straits as a condition to our agreement to a 12-mile territorial sea.

--In regard to fisheries, we proposed accommodating the coastal States by giving them preferences in fishing beyond the 12-mile territorial sea. We circulated draft articles on fisheries to other nations.

--In regard to seabeds, we proposed a seaward boundary for the continental shelf where the high seas reach a depth of 200 meters. Beyond the 200-meter depth, an international regime, administered as a trusteeship zone by the coastal State would license exploration and exploitation of seabed resources out to the remainder of the continental margin. Beyond this trusteeship zone, the resources would be governed by a new international authority.

That is the basic summary of where we are at the moment.

Mr. Irwin: Does anyone have any questions or comments? (to Mr. Stevenson) Jack, can quickly summarize the options for us, I think it would be more pertinent to go right to the fisheries and seabeds options.

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Col. Kennedy: (to Mr. Stevenson) Before we go to the options, can you give us a feel about what happened to the proposal?

Mr. Stevenson: The proposal for a 12-mile territorial sea has general support, in numerical terms, at least. Over 90 countries support it. Most of the countries which in the past have supported a territorial sea of less than 12 miles are ready to move to 12 miles. On fisheries, we haven't yet surfaced our detailed proposal. There seems to be general agreement, though, that we have to do something beyond 12 miles for the coastal countries.

Mr. Irwin: Have we circulated the text of this proposal?

Mr. Stevenson: Yes, but it didn't surface at the General Assembly meeting last March. It would give the coastal States more preferences in waters beyond 12 miles. These preferences would be dependent on two factors (1) local fishing in small boats and (2) coastal State investment. The proposal provides complete protection for distant-water fishing States.

We have been criticized, however, for not going far enough. Several of the developing countries say that the proposal would condemn them to a "canoe-type" fishing industry. The U.K., the Soviet Union and Japan will be reluctant to support this proposal.

On seabeds, we submitted a detailed draft treaty. The U.K. has publicly endorsed the concept. A number of NATO allies, after they are given a presentation of the defense aspects of the draft treaty, will be sympathetic. The treaty will, of course, be attacked by the 200-milers. This is a compromise, and it's difficult to know when it will attract support. We're just beginning to reach the multi-lateral stage.

Mr. Irwin: What about the status of the straits article?

Mr. Stevenson: The straits article involves a limited number of States. The States bordering the Straits of Magellan in southern Latin America are committed to the principle of free transit through the straits. World-wide there aren't too many States bordering on straits. We're engaged with bi-lateral negotiations with these countries. There is, of course, a general reluctance to give up control and move to free transit.

On pollution, Spain, for example, is very concerned, and she seized upon the straits as a way of getting control of this problem. In short, we have a long way to go on the straits article. Other countries want

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to keep it as a bargaining lever. The clear course for us to follow seems to be to continue with bi-lateral negotiations while adhering to multi-lateral negotiations.

Mr. Irwin: Are there any questions? Can we move now to the options?

Mr. Stevenson: In talking this over with the Under Secretary, and in light of the Agency responses, we feel that general option 1 (stand fast position) and general option 5 (substantive initiatives) don't help us very much in deciding what we should do this summer. We thought it would be more practical to go to the individual options.

The first is the territorial sea and straits option. There is inter-agency agreement for support of a 12-mile territorial sea and free transit through international straits, as set forth by the President. At Geneva we would make clear our support for this proposal.

On seabeds we should agree to support our trusteeship proposal, particularly in its essential parts. We could, however, consider changes proposed by other countries and various domestic industries. The only substantive option available to us is to propose that we move from a geological definition of the outer boundary to a 200-mile barrier. There would be two reasons for doing this. The first is that it would help the seabed proposal because the complexities of the present formulation make it difficult to explain and sell the proposal. The second is that it would seem to avoid discriminating against countries with narrow continental margins. A 200-mile limit would not be significantly different in its overall effect on U.S. seabed interests than our current continental margin definition of the zone. Such a move would in fact, indicate the willingness of the U.S. to accommodate the interests of other States.

The argument against proposing a 200-mile limit for the seabed trusteeship zone is the fear that such a move would lead to a 200-mile fishing zone and ultimately to a 200-mile zone for all purposes. In addition, some maritime countries, the Soviet Union, for example, will be against such a proposal. We don't think it would be a good negotiating tactic to propose a 200-mile seabed limit during this summer's session.

Mr. Irwin: What about if we start out by holding firm and then, depending on the negotiations, move to a trusteeship zone -- possibly one with a 200-mile outer barrier.

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Mr. Stevenson: This came up in our discussions with DOD. It might be a compromise we could make if three of the four agencies on the delegations thought it would be useful to support a boundary in miles. We could authorize the delegation to do so. I think that Commerce opposes this proposal.

Mr. Lynn: I have a couple of points I would like to make. For one thing, a 200-mile trusteeship zone would unnecessarily complicate the management of the seabed resources. Any given resource could be partly within and partly outside the zone.

As a substantive matter, a 200-mile trusteeship zone would not really give most countries with broad continental shelves any more than they would get with 200 meter depth as the outer boundary of the zone. On the contrary, a 200-mile zone would very likely raise the expectations of some countries. These countries could then set up other 200-mile goals.

As an ultimate result, a 200-mile limit for the seabeds trusteeship zone isn't a bad thing. As a negotiating strategy now, however, it's a "scary thing." I also wonder if it really gets us anywhere. We feel that most of the coastal States are more concerned with fish than seabeds. A strong change in our fishing proposal would make more of an impression on these States' than our support of the 200-mile limit for the seabed trusteeship zone.

Mr. Irwin: What is Interior's view?

Dr. Pecora: In general, we endorse what Jack (Stevenson) said. It's more precise, if that really means anything, to go with the 200-mile limit. Will we introduce the proposal to go to a 200-mile limit for the seabeds trusteeship zone? That point has to be taken into consideration. In general, I think that the position of distance from the shore is the primary issue.

Mr. Irwin: What is your position?

Dr. Pecora: We can hold the wider position (200-mile limit) Peru and Chile would gain by going out to 200 miles.

Mr. Irwin: You think it's clearer to say 200 miles.

Dr. Pecora: If precision is our goal, we should say 200 miles.

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Mr. Irwin: Do you have any comment on Commerce's views?

Dr. Pecora: No. We agree with the fall-back position of State. We also think we should be prepared for a second fall-back position. The concept of "creeping jurisdiction" is what bothers us most about going to 200-miles. This is the potential danger. Our position is that we should keep the two issues of seabeds and fisheries separate.

Mr. Lynn: The more viable way of keeping our momentum is by strengthening our fishing proposal.

Dr. Pecora: We have no sharp feeling on that.

Mr. Packard: The most important issue that we have to constantly keep in mind is the 12-mile territorial sea and the freedom of transit through international straits. We recognize the great difficulty of defining the outer boundary of the seabeds trusteeship zone. It's desirable to have an easily defined limit of 200 miles, but with everyone focused on 200 miles it will be difficult to get off it.

We think it's unwise to move in with a new proposal (200-mile outer limit) now. This should be studied more. One approach we can use is to give the negotiating team authority to discuss the issue if it comes up. The team will of course be required to come back to Washington for further instructions. We think it would be difficult to ask the delegation to start the negotiations by proposing the 200 mile limit and then come back to us for instructions.

We're willing to rely on the negotiating team, with a majority vote of three out of the four agencies. Our interests (DOD's) are no different from the other agencies'. During the first couple of weeks of the session, the delegation could get the views of other nations on a 200-mile limit for the seabeds zone. If they decided that they should table a 200-mile proposal--or any other proposal, for that matter--they would come back to us so that we could give them more specific guidance.

We think it's very important to discuss the original proposal at the meeting. We could use the 200-mile proposal to make progress to what we ultimately want to achieve. It's important to establish the principle of the trusteeship zone.

Mr. Lynn: This is what we would propose to do (introduce trusteeship concept) with the fisheries option 2. It's the only sound option from the point of view of management of stock. Our people want to start with

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the trusteeship zone concept. We are sensitive to your problem (the 200-mile limit), and that's the reason we put in option 2 -- to get away from the mileage problem. We have the scientific basis for staying away from this problem.

Mr. Packard: That's possible. We feel we should stay with the original proposal and not move far away from it.

Mr. Lynn: Getting the feel of the situation during the first couple of weeks of the meeting isn't a bad idea. We want to leave open which proposal we will go with. It also seems to me that we have to realize most of the noise will be for a fishing proposal. At this point, I think we should aim for a trusteeship zone on fish before seabeds.

Mr. Packard: We want to keep focused on the main issue. We have faith in the delegation, and we know that it won't get carried away. There's pretty good balance on the delegation. We're willing to give it our confidence. The question is how do we get to where we want to be. In doing so, we must be careful not to give away any details.

Mr. Irwin: (to Adm. Moorer) How do you feel about this, Tom?

Adm. Moorer: We have no significant disagreement with what's been expressed so far. We think it's important to test the water initially and to see what the general attitude will be. Our number one objective is to maintain the freedom of the seas--on and over. Whether to go for 200 miles or 100 miles or for a fishing agreement first or for a trusteeship zone first will become apparent once we find out what the general attitudes are.

Mr. Lynn: What is the agenda at the meeting?

Mr. Irwin: Before we get to that, let me ask Transportation for its views.

Adm. Edwards: We are in general agreement with the assessment presented by Mr. Stevenson. We have rejected option 1, but we feel that we have to come up with something this summer. There's no reason to think that what has been presented so far will be accepted at Geneva. We feel the delegation should be authorized to take positive action.

Mr. Irwin: The consensus of this meeting, as I see it, is that the delegation should give it the good old college try on our first position. The delegation should try to keep this position--with no mileage factor. However, if the delegation decides by consensus that it should table a mileage proposal, it should have the general authorization to do so. But they would have to come back here saying, "this is what we plan to do and

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why." We would then react and give the delegation guidance. This would give flexibility ahead of time to the team, subject to our veto.

Mr. Packard: That's right. The team would have the flexibility it needs.

Mr. Irwin: There's another variation. The delegation could be instructed not to table any proposal until it came back here for specific guidance.

Col. Kennedy: In the first case (tabling the 200-mile proposal at the start of the negotiations), we would be asking the President to revise his earlier position, the one he took last May. In the second and third cases (giving the delegation some flexibility), we would not have to put that issue before the President right now. That would depend on what the delegation suggests.

Mr. Packard: (to Col. Kennedy) It would depend on how you handle it.

Col. Kennedy: Speaking as the Devil's Advocate, let me ask what would happen if we come forward with a mileage proposal early on in the negotiations--that is, if we move from the President's position. Wouldn't we be opening ourselves up to real problems with nations that support mileage proposals. Will we have lost the ball game we're trying to save?

Mr. Packard: We might not want to come forward with such a proposal. That's why I feel we should take time initially to find out where we stand.

Mr. Lynn: Substantially, the 200-mile limit does not offer much to any country. Why do we believe this will get us off dead center? Why do we feel this way?

Mr. Stevenson: This has been favorably discussed very much in the African and Asian Consultative Committee for Seabeds. I think it's also appealing because it is precise and because it avoids discrimination against countries that don't have wide continental shelves--for example, Chile, Ecuador and Peru. On the face of it, equal mileage for everyone is appealing. This seems to be a political fact of life that we have to live with. Realistically, the U.S. should not make a 200-mile proposal, but we should indicate that we are willing to consider it. We want countries to focus on a mix of rights. Some countries won't even listen to us unless they hear a mileage factor. The only way we can get a hearing for the trusteeship zone concept is to talk mileage--and have alternatives.

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Still another important factor is the attitude of the U.K. The U.K. is now, so to speak, in bed with us on seabeds.

Mr. Irwin: (to Mr. Stevenson) Jack, do you want to go on to the fisheries options?

Mr. Stevenson: I think we all had some difficulty in separating out the elements of each proposal. Let me, therefore, go through them, one by one.

The first option eliminates the two most criticized features of the proposal we informally circulated. These two particular features are, as you recall, (1) small boats and (2) investment. Instead, the coastal States would now have a preference based on the amount of fish it can utilize rather than on the demonstration of economic need or investment. This option also provides explicit protection for traditional distant-water fisheries. There would be special non-discriminatory regulations for migratory high seas stocks and emphasis on regional and international cooperation.

The PRO arguments for this option are:

--This is probably the most expected "next move" from the U.S. The U.K. and the Soviet Union will not like it, but they could accept it.

--This would preserve a necessary measure against "creeping jurisdiction."

The CON arguments for this option are:

--Does not meet coastal State requirements. The coastal States will say that the U.S. is not serious and these States could move to more drastic proposals. This initiative could perhaps be accompanied by a statement saying that coastal States and distant-water fishing States should negotiate directly. We should also make clear that we would consider proposals made by other nations.

The second fisheries option is basically the Commerce proposal. This option would revise our existing proposal to provide for greater economic preferences for the coastal States and would give the coastal State control for management purposes of stocks in adjacent waters. Exercise of management control would be limited geographically by the distribution of the stocks rather than by arbitrary outer limits. There

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would be no absolute protection for distant-water fisheries, as in option 1, but rather the coastal States would have to take into account the distant-water fisheries. The coastal State would have to provide compensation if it decided to terminate distant-water fisheries.

The PRO arguments for this option are:

- The experts feel it would provide a rational, scientific program.
- It would be a logical further step for the U.S. to propose.
- It is responsive to the developing countries.
- It protects U.S. coastal and distant-water fisheries, but does not however, protect U.S. distant-water shrimp operations.

The CON arguments for this option are:

- It creates a breach between the U.S. U.K., the Soviet Union and Japan.
- The lack of an international element could lead the coastal States to press for creeping jurisdiction. The Commerce response suggested that we introduce a trusteeship concept into the option. There is some indication the coastal States could accept this approach.

The third fisheries option is the 200-mile concept. This would be the establishment of a 200-mile trusteeship zone in which control would be exercised through regional and international organizations in which coastal States would be about the same as in options 2. The emphasis would be on regional organization. Coastal States would have authority to exercise conservation unilaterally in the absence of regional organizations and would license fishing in the trusteeship zone.

The PRO arguments for this option are:

- It protects national security.
- By eliminating the battle of the 200-mile figure, we can bargain better for a mix of rights.
- The momentum is so great for 200 miles, that unless the proposal is considered, it will be impossible to head it off.

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The CON arguments for this option are:

--It is similar to the 200-mile trusteeship concept for seabeds in that once the 200 mile figure is accepted for resources and fish, it will be difficult to head off 200 miles for all purposes.

No agency says that we should present this proposal at the upcoming session in Geneva.

Basically, we have the three options I just outlined. There is an additional proposal which, in the event fisheries option 2 or 3 is adopted, would provide absolute protection for traditional distant-water fisheries subject to reasonable license fees. This would be an attempt to modify the developing nations. Commerce feels it is a non-option. State and DOD feel that the best thing would be to let the coastal States and the distant-water States negotiate among themselves.

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Mr. Lynn: That was an accurate presentation of the options. Option doesn't satisfy the coastal States or the distant-water States. In order to keep the negotiations going, we think it would be necessary to add a stronger, substantive initiative to this option. Option 2 could cause a breach with the U.K. We must test the water and explore this a little more. We view option 3 with a good deal of apprehension. For example, what does "central international fisheries organization" mean? We would choose between options 1 and 2.

Mr. Irwin: Under these options, would some percentage of the catch go to distant-water fisheries?

Mr. Lynn: That's possible.

Adm. Moorer: If the coastal States exercise management control over certain species, how would this be policed? What would happen if there were a dispute?

Mr. Pollock: If the coastal State can utilize the whole stock, it is authorized to do so. In the case of a dispute, how would it be settled?

Mr. Lynn: It would go the UN, under Article 33 of the Charter. We are going out on uncharted waters here, no pun intended, but scientists say this is the right way.

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Mr. Irwin: Article 33 is not compulsory.

Mr. Lynn: That's right.

Mr. Wright: I would like to get back to the subject of policing. How would a coastal State exercise control over a stock without policing-- without going on somebody's boat. This leads to the question of when do you board the boat. You're right back at the zonal approach.

Mr. Lynn: It might be possible to avoid the problem of boarding boats because the fish can be identified. There are three kinds: coastal stock, high seas stock and anadromous stock.

Adm. Moorer: Let's just take one example. What would you do about the tuna boats?

Mr. Lynn: That's a bad example because the coastal State would have no preference to migratory oceanic stocks such as tuna.

Mr. Pollock: If we take coastal stock as the example, it won't be necessary to police if the coastal State can utilize the entire stock. If not, the State will have to let other nations fish.

Mr. McKernan: There will be different kinds of boats, too.

Mr. Lynn: Enforcement should be easier with migratory species. With salmon, for example, you should be able to say that this fish is mine. And you can't catch salmon with tuna gear. The idea of starting out with a trusteeship zone appeals to me.

Mr. Packard: How can you tell if a salmon comes from Canada or Alaska?

Mr. McKernan: The fish could only be taken in coastal waters, not on the high seas.

Mr. Packard: That still doesn't answer the question. If the salmon is off San Francisco, how do you tell if it came from Canada or Alaska?

Mr. Negroponte: The question on policing is focused on a practical matter, and we shouldn't get bogged down on it. We have to define what control there would be beyond 12 miles.

Mr. Irwin: (to Adm. Edwards) Do you have any comments to make?

Adm. Edwards: No.

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Mr. Packard: I'm still firmly with option 1. I don't know, perhaps I don't fully understand option 2.

Mr. Irwin: Col. Kennedy?

Col. Kennedy: What is the likelihood of option 1 flying?

Mr. Lynn: Our people say that option 1 won't move.

Col. Kennedy: Then where do we go?

Mr. Stevenson: The question is what do you do with the distant-water States. We hope the coastal States and the distant-water States can work out a compromise in the context of the LOS conference. The delegation should be able to discuss further modifications of option 1 as necessary. The option is not that bad. Instead of absolute protection for distant-water States, it could provide some kind of percentage protection. The delegation should also be authorized to discuss the trusteeship concept for the fisheries option.

Col. Kennedy: As I see it, we are heading somewhere between options 1 and 2.

Mr. Lynn: It depends on what rules are in force.

Mr. Irwin: If option 1 will not go, should we refine option 2 rather than option 3?

Mr. Lynn: I think we should start with the trusteeship concept.

Mr. Stevenson: Option 3 has two parts: the trusteeship zone and 200 miles. We could try to link the trusteeship concept with the species control of option 2.

Mr. Irwin: I take it then that the consensus is that we should start with option 1, but that this option can be modified. We should try to avoid the mileage factor.

Mr. Lynn: If we give the delegation authorization to discuss 200 miles on seabeds-- subject to our last look-- I strongly feel that we need something more on fisheries. We should give the delegation authority to do something on fisheries as well.

Col. Kennedy: On fisheries, aren't we already there? (the 200-mile zone)

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We said we would talk to Brazil in the fall. How long can we stand on our position?

Mr. Lynn: That's right. This is our problem.

Mr. Packard: Our objective is not to have a meeting on fisheries. We must avoid this to the extent we can.

Col. Kennedy: I think we should now take a look at both of these options together.

Mr. Lynn: How much flexibility do we have?

Mr. Packard: We should concentrate on the trusteeship zone concept. If we talk of other things, this will get off the track. We want to establish the trusteeship zone.

Mr. Lynn: Or perhaps abandon it in part, but still come out where we want on security.

Mr. Irwin: If we get a trusteeship zone, it will help lessen the danger of "creeping jurisdiction." But we have to get it in a convention.

Mr. Lynn: I worry about putting something on the table now, with a year and a half to go.

Mr. Irwin: What is the agenda for the Geneva meeting?

Mr. Stevenson: This won't be decided until we arrive in Geneva. There are three sub-committees. One of them, dealing with seabeds, starts work early. Another, dealing with fisheries, territorial seas and straits, must decide what subjects to deal with. We must anticipate maneuvering by the Latinos. It's conceivable that a work group on fisheries could be set up in two or three weeks. Nevertheless, the delegation should have discretion because we can't be sure about the procedural situation.

We would like to avoid the extreme Latin Americans who don't want a successful conference. Yet we don't want to be tied up in procedure too long. A fisheries work group would be useful, and we hope one will be set up. We anticipate that one second sub-committee will be set up early to work on fisheries. We will stick to our position on territorial seas and straits.

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Mr. Irwin: (to Mr. Stevenson) Do you think the seabeds will come before fisheries?

Mr. Stevenson: Yes. There's an agreement among the developing countries to give this precedence.

Mr. Irwin: How does this group feel about transferring the trusteeship zone concept to our fisheries proposal?

Mr. Lynn: Why do we want to do that?

Mr. Irwin: I'm just asking.

Col. Kennedy: Let's say the subcommittee on seabeds gets to work first and we put forth a vague mileage figure. Then the other subcommittee on fisheries starts. Since we are already discussing a mileage-trusteeship zone concept on seabeds, are we not also committed to this on fisheries?

Mr. Packard: It does not necessarily follow that we have to keep the trusteeship concept out of the fisheries proposal.

Dr. Pecora: The Commerce proposal also gives us a way out.

Mr. Irwin: On seabeds, as I understand it, we should start with the present option, not yet modified to include mileage. One factor to consider before we do so, however, is the status of the fisheries proposal. On fisheries, should we start out with the trusteeship zone concept?

Mr. Lynn: If we move to a trusteeship concept on fisheries, how much are we moving to option 3 at the expense of option 2. We need to see what happens on the seabeds proposal first. How will these proposals be sequenced?

Col. Kennedy: The Latin American problem is already with us. We are committed to talk about something by the end of the summer with Brazil. If we discuss the seabeds first in Geneva, aren't we going to be locked in on the fisheries?

Mr. Irwin: That's the way the conference is organized. We will have to try to shift the focus to fisheries later.

Mr. Stevenson: In meetings last March we attempted to separate the

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discussions on boundaries and regimes. In Geneva we can try to talk about regimes first and boundaries later. This may happen, but it's a very uncertain procedure.

Mr. Irwin: What about fisheries and a trusteeship zone?

Mr. Lynn: Fisheries option 1 is weak to begin with. If we super-impose a trusteeship zone concept on it, we make it even weaker. Option 2 appeals to the coastal States. We can start out with a trusteeship concept with this option.

Col. Kennedy: We can talk about the trusteeship concept in a general sense.

Mr. Irwin: In option 1, as I understand it, you still follow the fish around.

Mr. Lynn: Yes, but it's not as strong as option 2.

Mr. McKernan: The first thing we want is to establish strong preferences for the coastal States. We lose this if we surface the trusteeship zone concept immediately.

Mr. Negroponte: But this is one way of giving preferences to the coastal States.

Mr. McKernan: They want total control.

Mr. Irwin: (to Col. Kennedy) What is the point of view of the NSC? How do you want this written up?

Col. Kennedy: We will do a paper for the President, laying out all the options, just as we have done here. We will also indicate those points on which there is a consensus.

which other
positions support our territorial sea and straits proposals? We started out this meeting by saying that our territorial sea and straits positions should remain firm. What proposals that we talked about today support this position?

Mr. Stevenson: On the one hand, we feel that any proposal giving coastal States jurisdiction over fishing beyond 12 miles is a potential threat to freedom of navigation. Yet we have to accommodate the coastal States without hurting ourselves.

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Col. Kennedy: What do we give on--fisheries or seabeds?

Mr. Stevenson: We are prepared to give the coastal States effective control on resources. We don't feel that this will prejudice our security.

Mr. Irwin: We have prepared a draft of instructions to the delegation, and you all have copies of it. Why don't I read it aloud. (copy attached)

(Reads Section 1: Territorial Sea and Straits Proposals) We think there is an element of flexibility in it. Any comments?

Mr. Lynn: Where is the give in this? I don't see any flexibility. It says we will negotiate this.

Mr. Packard: We have to remain firm on this proposal, without any flexibility.

Mr. Lynn: (to Mr. Irwin) But you said this gives us some flexibility.

Mr. Stevenson: We're only talking about accommodating objectives.

Mr. Irwin: Let me continue.

(Reads Section 2: Seabeds Proposals)

Mr. Packard: The only trouble I have with this proposal is in the next to last sentence. What do we mean by a mileage alternative to our present formulation. I'd rather we keep it as a trusteeship zone. I think we should stay hard on this.

Mr. Stevenson: We're talking about an intermediate zone, or some other way of ensuring international elements in the zone. It would call for strong regional means.

Mr. Irwin: I have no particular problems with that.

Mr. Packard: I would like to see us stick to the trusteeship zone concept in the early stages of the negotiations. If you have other ideas, please tell me what they are. I don't want to give you a blank check on this.

Mr. Irwin: (Reads Section 3: Fisheries)

Mr. Lynn: In what way does our draft of option 2 not comply with the

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requirements?

Mr. Stevenson: Our requirements state that the coastal State reservation of stock will be subject to third party review. Also, unlike option 1 where there is emphasis on a regional body, our draft gives the coastal State control over stocks and leaves it to the State to decide if it wants regional cooperation.

Mr. Lynn: This is inconsistent with what we did? I'll have to read the papers again.

Mr. Packard: It seems to me that Page 3 gives the delegation some flexibility. Let's nail it down, so we don't get out of the trust concept.

Mr. Irwin: It says the delegation should stress the importance of a trusteeship proposal.

Mr. Packard: I think we should have something in three pages that you can understand.

Mr. Helms: It's a good paper. You can't dot all the "i's" and cross all the "t's" before you get to Geneva.

Mr. Lynn: The same principle used for the seabeds proposal could be applied to fisheries, with some safeguards. I think the same logic should apply.

Mr. Packard: The fisheries problem has so many variables, and it's more complex than seabeds. If we want to delineate an outer boundary, we will probably end up with 200 miles.

Mr. Irwin: Once we talk about 200 miles in connection with seabeds, we will probably have to do it in connection with fisheries. Even if we don't talk about it, it is, as Col. Kennedy already mentioned, already there in fisheries.

Mr. Packard: We should wait a while before we get there. These instructions give the delegation enough flexibility to get along, and I wouldn't object to taking out that last sentence.

Mr. Lynn: I'm glad it's there. At least it got this issue out on the table.

Mr. Irwin: The delegation will, of course, have to remain in touch with Washington. (to Col. Kennedy) What do we do now?

Col. Kennedy: We'll do a memo for the President.

Mr. Irwin: Is everyone in agreement with the draft instructions?

Mr. Lynn: I just received the paper, and I would like to reserve judgment until I have had a chance to study it a little more.

Mr. Irwin: Everyone should read the paper and submit his comments. This should be done in the next day or two because Jack (Stevenson) is leaving on Wednesday.